



# Department of Veterans Affairs

## **Financial Policy**

### **Volume II**

#### **Appropriations, Funds and Related Information**

### **Chapter 2E**

#### **Parking Facility Revenue**

Approved:

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**Jon J. Rychalski**  
**Assistant Secretary for Management**  
**and Chief Financial Officer**

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## **0201 Overview**

This chapter establishes the Department of Veterans Affairs' (VA) financial policies for the collection and disposition of parking fees.

Key points covered in this chapter:

- VA will not charge Veterans seeking medical care for parking at VA medical facilities;
- 38 U.S.C. § 8109 authorizes VHA to set reasonable parking fees for users at medical facilities;
- Parking fees at VA medical facilities will be deposited to Medical Care Collections Fund (MCCF) where funds are available for transfer to medical services account when needed; and
- General Services Administration (GSA) may manage or delegate the management of parking facilities to VA for non-medical facilities.

## **0202 Revisions**

<b>Section</b>	<b>Revision</b>	<b>Office</b>	<b>Reason for Change</b>	<b>Effective Date</b>
Title & Definitions	Replace “Garage” with “Facility” and define a parking facility to include a parking garage	OFP	Consistent with edit to 38 U.S.C. § 8109	December 2021
Various	Full update	OFP	Separate titles 38 and 40 provisions and coverage.	December 2021
Appendices A and B	Present impact of laws dissolving the Parking Revolving Fund (PRF)	OFP	38 U.S.C. § 8109 PRF deposit requirement is changed to MCCF.	December 2021
Various	Reformatted to new policy format and completed five-year update.	OFP (047G)	Reorganized chapter layout	February 2018
0201 Overview	Removed Transportation Equity Act for the 21st Century and transit cash out. Added parking authorities for VA.	OFP (047G)	Unrelated policy reference and added specific parking policy references	February 2018

Section	Revision	Office	Reason for Change	Effective Date
0205 Policies	Added 40 U.S.C. § 121 guidance for the Office of Administration.	OFP (047G)	Add Office of Administration Collection policies	February 2018
0206 Authorities and References	Added 40 U.S.C. § 121 Public Buildings, Property, and Works reference and processing information.	OFP (047G)	Add correct references	February 2018
0206 Authorities and References	Updated Military Construction and Veterans Affairs and Related Agencies Appropriation Act, 2018 (H.R. 2998).	OFP (047G)	Update references	February 2018
0208 Questions	Updated VHA mailbox.	OFP (047G)	Update contact information	February 2018

### 0203 Definitions

**Medical Care Collections Fund (MCCF)** – A VA deposit fund for amounts recovered or collected for VHA activities as defined in Title 38, including parking facility revenue. MCCF funds will be transferred to the medical services account to be available until expended.

**Medical Services Account** – The account used for necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs.

**Parking Facility** – encompasses a surface parking lot, and a garage or a structure or part of a structure in which vehicles may be parked.

**Parking Revolving Fund (PRF)** – Treasury revolving fund identified in 38 U.S.C. § 8109 dedicated to funding VA medical facility parking, ended January 22, 2004.

### 0204 Roles and Responsibilities

**Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Local Finance Offices, Chief Accountants, and Other Key Officials** are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

## **0205 Policies**

### **020501 General Policies**

- A. 38 U.S.C. § 8109 addresses parking at medical facilities giving the Secretary of Veterans Affairs authority to set reasonable fees for users.
- B. 40 U.S.C. § 121 identifies GSA authority to administer and operate Federal parking facilities except those operated by VA medical facilities.
- C. In accordance with GSA Federal Management Regulation in 41 C.F.R. §§ 102-74.265-310, VA will submit non-medical facility parking management plans to GSA for review and approval.

### **020502 VHA Medical Facility Parking Fees**

- A. In accordance with 38 U.S.C. § 8109, Parking Facilities, and the Office of General Counsel (OGC) Memorandum copied in Appendix A, VA medical facilities that used more than \$500,000 of Treasury Parking Revolving Fund (PRF) monies between October 01, 1986 and January 22, 2004 will establish and collect reasonable fees from users at all their parking facilities except for vehicles transporting:
  - Veterans seeking examination or treatment, or
  - Unpaid volunteer workers performing services for the benefit of Veterans receiving care at a VA medical facility.
- B. VHA facilities that did not use PRF funds exceeding \$500,000 to finance parking facility construction or renovation will determine whether to waive parking fees or to charge reasonable fees. This authority is subject to the same exemption from parking fee charge for Veterans seeking medical care and for volunteers performing services for Veterans.

### **020503 GSA-Administered Parking Fees**

- A. When GSA delegates authority to VA to operate, maintain or repair a parking facility under 40 U.S.C. § 121(d)(3), VA shall retain the portion of parking fees determined available under the delegation as no year funds until spent for an authorized purpose.
- B. Parking management plans shall include a clause stipulating distribution of parking fees. Examples of different fee distribution requirement from GSA-approved parking management plans include:

- Parking fees collected from VA Central Office (VACO) employees via payroll deduction will be credited back to a no year fund for the Office of Administration by VA's Financial Services Center (FSC) where they remain available until spent on parking facility expense.
  - VACO Office of Inspector General employee parking deductions are deposited to Treasury as miscellaneous receipts.
- C. Parking facility managers will notify the FSC, Chief Accounting Officer of changes in GSA-approved parking management plan requirement for the distribution of funds.

#### **020504 Recording and Reporting Parking Facility Revenue**

- A. VHA medical facility parking revenue will be recorded in the Medical Care Collections Fund (MCCF), as no year funds. Collections will remain in MCCF until transferred to the medical services account for VA beneficiary medical services.
- B. Non-medical facility parking revenue will be directed as required under GSA-approved plan or delegation.
- C. VA will report MCCF revenue in accordance with Office of Management and Budget Circular A-136, Financial Reporting Requirements. See the note excerpt copied in Appendix B from 38 U.S.C. § 1729A on impact of Public Laws 108-447 and 108-199 dissolving multiple revolving funds and directing deposit of VHA medical facility parking user fee collections to MCCF.

#### **0206 Authorities and References**

[38 U.S.C. § 1729A, VA MCCF](#) (See note excerpt in Appendix B).

[38 U.S.C. § 8109, Parking Facilities](#)

[40 U.S.C. § 121, Administrative](#)

[41 CFR §§ 102-74.265-310, Parking Facilities](#)

#### **0207 Rescissions**

OFP Volume II, Chapter 2E, Parking Garage Revenue, February 2018.

#### **0208 Questions**

Questions concerning this financial policy should be directed to the following points of contact:

VHA	VHA Financial Policy (Outlook)
VHA	VAFSC Nationwide Accounting (Outlook)
VBA	VAVBAWAS/CO/FINREP (Outlook)
VBA	VAVBAWAS/CO/OPERATIONS (Outlook)
NCA	NCA Financial Policy Group (Outlook)
NCA	NCA Budget Service (Outlook)
All Others	OFP Accounting Policy (Outlook)

Appendix A: OGC Memorandum March 15, 2006

Department of  
Veterans Affairs

Memorandum

Date: MAR 15 2006

From: General Counsel (025)

Subj: Interpretation on Collection of Parking Fees

To: Acting Chief Facilities Management Officer (18)

1. This is in response to your memorandum dated February 2, 2005, wherein you requested our interpretation of whether the requirement in Title 38, Section 8109<sup>1</sup> to collect parking fees is still applicable to a parking structure funded from the major or minor construction appropriations.

Factual Background

2. Since its inception, the Parking Revolving Fund has contained both annual appropriations and income from fees collected for using garages and parking facilities.<sup>2</sup> The legislative history for P.L. 99-576 which amended what is now Section 8109 of Title 38, states that the Committee's expectation was "[t]hat after FY 1986 the funds accumulated in the parking revolving fund construction reserve from parking fees will be a principal source of funds for future parking structures." 99<sup>th</sup> Congress, 2d Session, Report 99-444, S.2422, pg. 70.

3. Subsection (c)(1) of Title 38, Section 8109 as currently written requires each employee, visitor, and other individual having business at a medical facility for which parking fees have been established to be charged (with some exceptions). Subsection (d)(1) of Title 38, Section 8109 states that where "funds from the revolving fund . . . are expended . . . ." to alter or construct a garage at a cost exceeding \$500,000 or to lease at a cost of \$100,000 per year,<sup>3</sup> that the Secretary shall prescribe a schedule of parking fees to be charged.

4. The VA Portion of the Consolidated Appropriations Act, 2005, Division I, Section 115, permanently redirected receipts that would otherwise be credited to the Parking Revolving Fund to the Medical Care Collections Fund. The Appropriations Acts for fiscal years 2004 and 2005 have made the major and minor construction accounts available to fund parking structures. No changes have been made to the language in Title 38, Section 8109 (hereafter "Section 8109" or "§ 8109").

<sup>1</sup> Pertinent excerpts of the law are included as an attachment.

<sup>2</sup> Some years there were no amounts appropriated such as FY 1986. Legislative History, P.L. 99-576.

<sup>3</sup> These provisions are discussed more fully below.



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Acting Chief Facilities Management Officer (18)

Question Presented

Question: Does the transfer of funds from the Parking Revolving Fund to Medical Care Collections Fund and the exclusive use of funds from the major or minor construction for parking garage construction and alteration, eliminate the requirement to charge and collect parking fees for projects greater than \$500,000?

Short Answer: Parking fees are still to be charged and collected for projects greater than \$500,000 in the following situations: 1) if a medical facility has at least one parking facility that was built or renovated using funds from the Parking Revolving Fund (PRF), fees must be charged at that facility as well as at other parking facilities on the premises; 2) if a medical facility has only one parking facility that was originally built or renovated with PRF funds and it is later renovated using funds that are not from the PRF, parking fees must be charged; and 3) VA has discretion regarding whether to charge fees at a parking facility if the expenditures used to build or renovate such facility are not from the PRF and there is no other parking facility on the premises where that is the case.

Discussion

**Concepts of Statutory Interpretation**

5. The beginning point for interpreting any statute is the language of the statute itself. When the language in a statute is clear, further inquiry should not be performed unless the circumstances are extraordinary. **Demarest v. Manspeaker**, 498 U.S. 184, 190, 112 L. Ed. 2d 608, 111 S. Ct. 599 (1991). Legislative history is used to assist in interpreting a statute but “in the absence of a clearly expressed legislative intention to the contrary, the language of the statute itself must ordinarily be regarded as conclusive.” **Burlington Northern Railroad Co. v. Oklahoma Tax Commission**, 481 U.S. 454, 107 S. Ct. 1855, 95 L. Ed. 2d 404 (1987). Another principle of paramount importance in interpreting a statute is that “a statute must, if possible, be construed in such fashion that every word has some operative effect.” **U.S. v. Nordic Village Inc., David O. Simon**, 503 U.S. 30; 112 S.Ct. 1011, 117 L.Ed. 2d 181 (1992).

**Purpose of The Revolving Fund**

6. The language of Section 8109 shows that the Parking Revolving Fund was used to finance the construction, alteration, operation, and maintenance of certain parking garages and parking facilities. In this regard, subsection (h)(1)

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states, in part, that “[p]arking fees collected under subsection (c) of this section **shall be administered as a revolving fund . . .**” (Emphasis added). Also, subsection (i)(1) states that “The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition . . . of parking facilities at medical facilities . . .” Although it is not necessary to look at legislative history when statutory language is clear, the legislative history confirms the purpose of the fund. It states that “amounts appropriated under the authority of this section, and all income from fees collected for the use of such garages and parking facilities, shall be administered as a revolving fund to effectuate the provisions of this section . . .” **99<sup>th</sup> Congress, 2d Session, Report 99-444, S.2422, pg. 72.** Thus, the Parking Revolving Fund was a mechanism for administering the funds contained therein (appropriated dollars and parking fees) that were used to finance parking facilities.

#### Charging Parking Fees

7. The criteria for determining when parking fees must be charged are found in § 8109 (c)(1). Subsection (c)(1) requires the Secretary to charge parking fees at the medical facilities for which fees have been established under subsections (d) or (e). Under subsection (d), parking fees are established pursuant to a schedule designed to ensure that they are reasonable and it is mandatory that the fees be charged at these parking facilities. Under subsection (d)(1) (A) & (B), the prerequisite for charging fees in accordance with the schedule is when the funds used to alter or construct a garage come from the revolving fund and the cost of the project exceeds \$500,000 or if a lease, the cost is \$100,000 per year.

8. Under subsection (e), charging parking fees in relation to the projects described therein is discretionary. But if they are charged, those fees like the fees charged pursuant to subsection (d) are to be administered as a revolving fund. The legislative history states the following:

The Committee bill would merely establish the minimal threshold required by statute for a parking fee schedule where fees would be mandated by the bill and a threshold to be considered where the establishment of a fee schedule by the Administrator would be discretionary. **99<sup>th</sup> Congress, 2d Session, Report 99-444, S.2422, pg. 70.**

The above language from the legislative history shows that the dollar value of the parking project triggers the requirement to charge fees.

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#### **Collecting Parking Fees**

9. Another rule of statutory interpretation is that “[a] statute is to be read as a unified whole, not a collection of disparate clauses. **Weddel v. Secretary of HHS**, 23 F.3d 388, 392 (Fed. Cir. 1994). This is applicable to the language in § 8109 (c)(3) that the Secretary “shall collect . . . parking fees charged under this subsection.” The statement in (c)(3) refers back to the parameters established in (c)(1) for charging fees, and simply means that once the parking fees are charged, they must be collected.

10. 38 U.S.C. § 8109 (c)(1) clearly states “[e]xcept as provided in **paragraph (2)** of this subsection, each employee, visitor, and other individual having business . . . shall be charged the applicable parking fee . . .” (Emphasis added). Subsection (c)(2) (A) & (B) provides that parking fees shall not be charged when a vehicle is used to transport “a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment or a volunteer worker . . . in connection with such worker performing services for the benefit of veterans receiving care at a medical facility . . .” Following the concept of statutory interpretation that “a statute must, if possible, be construed in such fashion that every word has some operative effect,”<sup>5</sup> then § 8109 (c)(1) must be interpreted to mean that the only exceptions to being charged parking fees are those set forth in (c)(2). The exceptions are based on the status of the individual parking at VA facilities.

#### **How does the change in the law impact the need to charge parking fees?**

11. The legislative history provides insight in terms of whether parking fees must still be charged. In 1986, what is now Section 8109, was amended to make the Parking Revolving Fund the only source of funds for constructing and altering garages and parking facilities and to require VA to establish and collect fees for parking at certain facilities. Prior to 1986, the source of funding for these projects was through the traditional appropriation process and it was VA’s general practice to not charge fees. In addressing the establishment of a fee schedule for parking fees, the legislative history states that “[t]he purpose of a reasonable fee schedule . . . is to ensure that funds would be deposited into the revolving

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<sup>5</sup> **U.S. v. Nordic Village Inc., David O. Simon**, 503 U.S. 30; 112 S.Ct. 1011, 117 L.Ed. 2d 181 (1992).

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fund to create a construction reserve to be used for future VA parking structure construction, acquisition, or alterations.” **99<sup>th</sup> Congress, 2d Session, Report 99-444, S.2422, pg. 70.** The plan was for parking fees to be a key source of funding.<sup>6</sup>

12. Since the VA Portion of the Consolidated Appropriations Act, 2005, Division I, Section 115, permanently redirected receipts that would otherwise be credited to the PRF to the Medical Care Collections Fund, there are no longer any funds either in the PRF or going into it. Instead, the Appropriations Acts for fiscal years 2004 and 2005 have made the major and minor construction accounts available to fund parking structures. Parking facilities renovated or constructed after fiscal year 2005 will not be using PRF funds. Therefore, one prong of the two-prong threshold for charging parking fees in subsection (d)(1) is missing (project cost exceeds \$500,000 and expenditure of funds from the revolving fund). Moreover, the importance previously associated with parking fees as the primary source for parking structure construction no longer exists.

13. The analysis, however, for whether fees must be charged does not end with the fact that there are no longer funds in the revolving fund. In this regard, the legislative history is again helpful. When the fees in the Parking Revolving Fund were identified as the primary source of funding, the Committee made an exception for some projects stating that any projects for which funds were appropriated prior to 1986 but which would open or still be under construction after 1986, did not have to be funded from the Parking Revolving Fund. Nonetheless, the Committee stated the following:

Although the funding source for these projects would be grandfathered by the Committee bill, the Committee stresses that the establishment of a fee schedule and the collection of fees **would still be required as to all parking facilities at a medical facility at which any such structure opens, or alterations of such structure are completed, on or after October 1, 1986.** (Emphasis added) **99<sup>th</sup> Congress, 2d Session, Report 99-444, S.2422, pg. 72.**

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<sup>6</sup> As mentioned in the Background section of this Memorandum, the legislative history stated that after FY 1986, the funds in the parking revolving fund construction reserve from parking fees would be a principal source of funds for future parking structures. **99<sup>th</sup> Congress, 2d Session, Report 99-444, S. 2422, pg. 70.**

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The highlighted portion from the legislative history referenced above shows that although certain projects grandfathered in would have a source of funding other than the revolving fund i.e. annual appropriations, the Committee stressed the importance of still charging fees at those facilities if there were any other parking structures at the same medical facility for which parking fees would apply.

Conclusion

Based on the information above, the following is the conclusion of our office regarding parking fees for projects greater than \$500,000: 1) if a medical facility has at least one parking facility that was built or renovated using funds from the Parking Revolving Fund (PRF), fees must be charged at that facility as well as at other parking facilities on the premises; 2) if a medical facility has only one parking facility that was originally built or renovated with PRF funds and it is later renovated using funds that are not from the PRF, parking fees must be charged; and 3) VA has discretion regarding whether to charge fees at a parking facility if the expenditures used to build or renovate such facility are not from the PRF and there is no other parking facility on the premises where that is the case.

14. If you have questions regarding this matter, feel free to contact Charlma Jones Quarles of my staff at 273-8615.



for Tim S. McClain

Attachment

Attachment

Pertinent Provisions of Title 38, Section 8109

(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

(2) A parking fee shall not be charged...for the accommodation of any vehicle used to transport . . . -

(A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment; or

(B) a volunteer worker . . . in connection with such worker performing services for the benefit of veterans receiving care at a medical facility . . . .

(3) The Secretary shall collect . . . parking fees charged under this subsection.

(d)(1) For each medical facility where funds from the revolving fund described in subsection (h) of this section are expended for-

(A) a garage constructed or acquired by the Department at a cost exceeding \$500,000 (or, in the case of acquisition by lease, \$100,000 per year); . . .

\* \* \* \* \*

(B) a garage constructed or acquired by the Department at a cost exceeding \$500,000"

the Secretary shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

(e) The Secretary may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section.

\* \* \* \* \*

(h)(1) . . . parking fees collected under subsection (c)...shall be **administered as a revolving fund** ...

\* \* \* \* \*

(3)(A) . . . [N]o funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition ...of a garage at a medical facility after September 30, 1986.

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(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities . . . .

Department of  
Veterans Affairs

## Memorandum

Date: February 2, 2005  
From: Director, Capital Asset Management and Planning Service (182C)  
Subj: Interpretation on Collection of Parking Fees  
To: Phillipa Anderson, Assistant General Counsel (025)

1. The purpose of this memo is to request your interpretation of the latest regulations for parking as it relates to the requirement of collecting parking fees.
2. Title 38, Section 8109 states the following on the requirements for collecting fees when funding is acquired by the Parking Revolving Fund:
  - (3) The Secretary shall collect...parking fees charged under this subsection.
  - (d)(1) For each medical facility where funds from the revolving fund described in subsection (h) of this section are expended for--
    - (A) a garage constructed or acquired by the Department at a cost exceeding \$500,000 (or, in the case of acquisition by lease, \$100,000 per year);...
3. The VA Portion of the Omnibus Appropriations Bill, Division G, Appropriations Act, 2004, Sec. 115 eliminates the Parking Revolving Fund, transferring collections to the Medical Care Collections Fund. In addition, the "Parking Revolving Fund" Section authorizes funding of parking structures or alterations from the Major or Minor construction accounts.
4. The question for interpretation is: Since Title 38 requires collection when a new parking structure project or a renovation to an existing parking structure is funded from the Parking Revolving Fund for projects greater than \$500,000, are the medical centers exempt from collecting parking fees when the new or renovation parking structure project is funded from the Major or Minor construction accounts?
5. Thank you in advance for your assistance. If you have any questions, please contact me at 565-4092.

  
Anthony Di Stasio



**Appendix B: 38 U.S.C. § 1729A-Note on Laws Dissolving Treasury PRF**

**FROM 38 U.S.C. § 1729A. Department of Veterans Affairs Medical Care Collections Fund:**

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**STATUTORY NOTES AND RELATED SUBSIDIARIES**

...

Improvements for Recovery and Collection of Amounts for Department of Veterans Affairs Medical Care Collections Fund

...

Medical Services Accounts

Pub. L. 108–447, div. I, title I, §115, Dec. 8, 2004, 118 Stat. 3293, provided that:

"(a) Hereafter receipts that would otherwise be credited to the accounts listed in subsection (c) shall be deposited into the Medical Care Collections Fund, and shall be transferred to and merged with the 'Medical services' account, in fiscal year 2005 and subsequent years, to remain available until expended, to carry out the purposes of the 'Medical services' account.

"(b) The unobligated balances in the accounts listed in subsection (c), shall be transferred to and merged with the 'Medical services' account in fiscal year 2005 and subsequent years, and remain available until expended, to carry out the purposes of the 'Medical services' account: Provided, That the obligated balances in these accounts may be transferred to the 'Medical services' account at the discretion of the Secretary of Veterans Affairs and shall remain available until expended.

"(c) Veterans Extended Care Revolving Fund; Medical Facilities Revolving Fund; Special Therapeutic and Rehabilitation Fund; Nursing Home Revolving Fund; Veterans Health Services Improvement Fund; and Parking Revolving Fund."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–199, div. G, title I, §115, Jan. 23, 2004, 118 Stat. 370.